

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:10-CV-00090-RLV-DSC**

KONTANE, INC.,)	
)	
Plaintiff,)	
)	
v.)	CONSENT JUDGMENT
)	
MARK BANISH,)	
)	
Defendant.)	
_____)	

THIS MATTER is before the Court on the parties' Motion for Entry of Consent Judgment. (Doc. 25.) All parties to this action, and their respective counsel, have each signed the Consent Judgment to evidence their agreement to the terms stated therein and to its entry by the Court. (Doc. 25 at 3–4.)

It appearing to the Court that the parties have agreed to settle all matters and things in controversy between them in connection with the above noted Civil Action, and that they now desire to reduce their agreement to a Consent Judgment; and

If further appearing to the Court that the parties, as evidenced by their signatures and those of their respective attorneys affixed to the Consent Judgment, attached to their Motion, have voluntarily and knowingly (A) agreed to settle all matters and things in controversy between them on the terms hereinafter noted; (B) agreed that this Consent Judgment may and should be entered; (C) agreed that there is a sufficient factual and legal basis upon which this settlement and Consent Judgment may be entered; and (D) waived any need for the recitation of the facts and legal conclusions supporting this settlement and Consent Judgment.

**NOW, THEREFORE, BY AND WITH THE CONSENT OF THE PARTIES, IT IS
ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

(1) For three years from the date of the entry of this Consent Judgment, Defendant Mark Banish shall not, within the States of Virginia, North Carolina, South Carolina or Georgia, directly or indirectly, (A) engage in the business of owning, operating, planning and/or developing the warehousing, consolidation or exporting of heavy-duty truck parts of any kind, whether as owner-operator or otherwise (hereinafter the "Restricted Business"); (B) assist (through employment or otherwise) any person, firm, partnership, trust, corporation or other association (whether governmental or private) to engage in the Restricted Business; or (C) own any interest in or organize a business which engages in the Restricted Business, except that this Consent Judgment shall not preclude Defendant Mark Banish from holding not more than ten percent of the outstanding shares of any publicly held company, registered on a national securities exchange, which may be so engaged in a trade or business identical or similar to the Restricted Business. For purposes of this Consent Judgment, the term "heavy-duty truck parts" shall be defined as those truck parts used on vehicles included in Classes 6, 7 and 8 of the commercial truck classification classes established by the United States Department of Transportation Federal Highway Administration Vehicle Inventory and Use Survey standards.

(2) Defendant Mark Banish shall comply with the Covenant Not to Disclose Confidential Information contained in Paragraph 6 of his August 23, 1996, Employment Agreement with Kontane, Inc., which Employment Agreement is attached as Exhibit A to the Complaint filed in this action.

(3) All parties shall bear their own costs incurred in connection with this Civil Action, including attorney's fees.

(4) Any violation of this Consent Judgment shall be punishable by the contempt powers of this Court.

Signed: May 17, 2012

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees
United States District Judge

